



Legislation Text

File #: 2843-2015, **Version:** 1

Council Variance Application: CV15-059

APPLICANT: Michael Duffy, McCormack Baron Salazer Development; c/o Travis J. Eifert, PE; EMH&T; 5500 New Albany Road; Columbus, OH 43054.

PROPOSED USE: Three live-work units or commercial tenant spaces.

NEAR EAST AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The site is being developed with an apartment complex and is zoned in the ARLD, Apartment Residential District. The applicant proposes three live-work units or three exclusively commercial tenant spaces to be located on the ground floor of a 27-unit apartment building fronting Mt. Vernon Avenue. A variance is necessary because the proposed live-work units exceed the provisions of the residential home occupation standards, and the alternative proposal for commercial tenant spaces is not permitted within the ARLD, Apartment Residential District. This site is located within the planning area of the *Near East Area Plan* (2005), which encourages mixed-used developments in areas within and surrounding commercial nodes. Because of the presence of commercial development in this neighborhood and the existence of the Urban Commercial Overlay, the proposed uses will contribute to the traditional and established development pattern along Mt. Vernon Avenue. The site is also subject to BZA15-058 for increased building height and reductions to parking, parking lot landscaping, building setbacks, and perimeter yard.

To grant a Variance from the provisions of Sections 3333.02 ARLD, Apartment residential district uses; 3312.49(C) minimum parking spaces required; and 3333.34(A, D, E, and J) Home occupation, of the Columbus City Codes; for the property located at **1233 MT. VERNON AVENUE (43203)**, to permit three 800 square-foot live-work units or commercial tenant spaces, with reduced parking in the ARLD, Apartment District (Council Variance # CV15-059).

WHEREAS, by application No. CV15-059, the owner of property at **1233 MT. VERNON AVENUE (43203)**, is requesting a Council variance to permit three live-work units that exceed the provisions of the residential home occupation standards, or alternatively three commercial tenant spaces, with reduced parking in the ARLD, Apartment District; and

WHEREAS, Section 3333.02, AR-12, ARLD, and AR-1, apartment residential district use, prohibits commercial uses in the ARLD, Apartment Residential District, while the applicant proposes three 800 square-foot live-work units or three 800 square-foot limited commercial tenant spaces within a 27-unit apartment building; and

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1 parking space per 250 square feet of retail space, for a maximum total requirement of ten (10) parking spaces for up to 2,400 square feet of retail space if the units are solely used for commercial purposes, while the applicant proposes to provide five (5) parking spaces; and

WHEREAS, Section 3333.34(A), Home Occupation, requires any home occupation to be incidental and subordinate to the primary residential use, while the applicant proposes live-work units with uses that are not permitted within the home occupation provisions; and

WHEREAS, Section 3333.34(D), Home occupation, does not allow use of more than twenty (20) percent of the livable area of any residence for a home occupation, while the applicant proposes to use forty-five (45) percent of the livable area for a tenant occupying the unit as a primary residence; and

WHEREAS, Section 3333.34(E), Home occupation, permits one support employee for home occupations for architects, attorneys, clergymen, dentists, engineers, physicians or surgeons in addition to the permanent resident of the dwelling unit, while the applicant proposes up to five (5) supportive personnel not living in the dwelling unit to be employed by each home occupation business; and

WHEREAS, Section 3333.34(J), Home occupation, does not allow a wholesale or retail use as a home occupation, while the applicant proposes limited wholesale and retail uses; and

WHEREAS, the Near East Area Commission recommends approval; and

WHEREAS, City Departments recommend approval because the request complies with the *Near East Area Plan* criteria for supporting commercial uses in residential areas. Because of the presence of commercial development in this neighborhood and the existence of the Urban Commercial Overlay, the proposed uses will contribute to the traditional and established development pattern along Mt. Vernon Avenue. The Council variance is the only mechanism to allow the proposed live-work units and/or commercial tenant spaces to exist within the ARLD, Apartment District, while rezoning to a commercial district is not a viable option to establish commercial tenant spaces within a predominantly residential development; and

WHEREAS, said ordinance requires separate submission for all applicable permits and Certificate of Occupancy (if required) for the proposed uses; and

WHEREAS, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

WHEREAS, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

WHEREAS, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **1233 MT. VERNON AVENUE (43203)**, in using said property as desired; now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That a variance from the provisions of Sections 3333.02 ARLD, Apartment residential district uses; 3312.49(C) minimum parking spaces required; and 3333.34(A, D, E and J) Home occupation, of the Columbus City Codes, are hereby granted for the property located at **1233 MT. VERNON AVENUE (43203)**, in that said sections prohibit commercial uses in the ARLD, Apartment Residential District; with a parking reduction from ten (10) required spaces to 5 (five) spaces; and a home occupation that is not subordinate to the residential use, with up to forty-five (45) percent livable area to be used, up to five (5) supportive personnel to be employed, and with limited retail or wholesale uses as part of a home occupation; said property being more particularly described as follows:

1233 MT. VERNON AVENUE (43203), being 1.5± acres located at the southeast corner of Mt. Vernon and North Ohio Avenues, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, Section 14, Township 5, Range 22, Refugeec Lands, and described as follows:

Beginning at the intersection of the easterly right-of-way line for N. Ohio Ave. with the southerly right of-way line for Mt. Vernon Ave, the same being the north corner of Lot 9 of Bethhauser and Rankin's Subdivision as recorded in Plat Book 4, Page 54;

thence North 77° 17' 24" East, with said southerly right-of-way line, 260.07 feet to the northeast corner of Lot 2 of said subdivision, the same being the northwest corner of Lot 1 of said subdivision;

thence South 13° 17' 42" East, with the line common to said Lots 1 and 2, 99.90 feet;

thence North 77° 39' 44" East, across said Lot 1, 30.91 feet to the westerly right-of-way line of N. Champion Ave.;

thence South 03° 03' 34" West, with said westerly right-of-way line, 161.39 feet to an angle point in said westerly right-of-way line;

thence North 86° 56' 16" West, across Bethhauser Rankin Samuel and Walker Subdivision as recorded in Plat Book 2, Page 234, 308.27 feet to said easterly right-of-way line;

thence North 03° 04' 44" East, with said easterly right-of-way line, 178.35 feet to the *Point of Beginning*.

Containing 1.5 acres, more or less. Subject, however, to all legal restrictions, rights-of-ways and/or easements. This description is based on existing records and is not for transfer.

All records refer to the records of the Recorder's Office, Franklin County, Ohio.

Parcel No: 010-236683

Known As: 1233 Mt. Vernon Avenue, Columbus 43203

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for an apartment complex containing three live-work units, or three 800 square-foot commercial tenant spaces, or those uses permitted in the ARLD, Apartment District.

SECTION 3. That this ordinance is further conditioned on only the following uses being permitted within these units:

Dressmakers, seamstresses, tailors.

Painters, sculptors, composers, writers and similar artistic occupations.

Telephone answering.

Computer programming.

Professional practices - architects, engineers, landscape architects, graphic artists, designers, lawyers, insurance agents, brokers, consultants and members of similar professions.

Tutoring.

Online and catalog sales where goods, products or materials are not warehoused on the premises.

Wholesale or manufacturer's representative's sales transactions where goods, products or materials are not warehoused on the premises.

Retail sales where limited goods, products or materials are on display within the live/work unit, and large amounts of goods are not warehoused on the premises.

SECTION 4. That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy (if required) for the proposed uses.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.